



Deposition of:  
**Brenda Philemon Simpson**

*May 24, 2021*

In the Matter of:  
**Flowers, Jobbiev. Electrolux North  
America, Inc**

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1       this -- in this lawsuit?

2           A.     I do not recall the time frame.

3           Q.     Do you recall when you last read the  
4       complaint in this lawsuit?

5           A.     No, ma'am.

6           Q.     Do you know Jobbie Flowers?

7           A.     Yes, ma'am.

8           Q.     How do you know Jobbie?

9           A.     Jobbie worked at Electrolux with me.

10          Q.     Did Jobbie at one point report directly to  
11       you?

12          A.     Yes, ma'am.

13          Q.     And you never put Jobbie on a performance  
14       improvement plan; is that true?

15          A.     That's true.

16          Q.     And you never gave Jobbie below a meets  
17       expectations evaluation; isn't that true?

18          A.     That's true.

19          Q.     Do you know Kopal Rawat?

20          A.     Yes, ma'am.

21          Q.     Who is Ms. Rawat?

22          A.     She is a manager that is on my IT leadership  
23       team.

24          Q.     Did you hire Ms. Rawat?

25          A.     Yes, I did.

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1 being treated differently, didn't he?

2 A. He asked to have -- he asked to have a  
3 mediator because there was concerns on their  
4 communication.

5 Q. How is it that you believe it's only about  
6 their communication?

7 A. I'm sorry. Can you repeat the question?

8 Q. Yeah. You've testified twice that you  
9 believe that the only reason Mr. Flowers was asking for  
10 a mediator or you had any knowledge of any concerns  
11 regarding Mr. Rawat and Ms. Flowers -- or, I'm sorry,  
12 Mr. Flowers and Ms. Rawat was because of communication.  
13 What do you mean by that?

14 A. I mean that Jobbie raised a concern that --  
15 that he would like a mediator, and he and I had a verbal  
16 discussion on the concern.

17 Q. What do you recall about that verbal  
18 discussion on the concern?

19 A. That he was frustrated with Kopal requesting  
20 details on weekly status and things such as that.

21 Q. What else do you recall?

22 A. I recall that the conversation ended well in  
23 that we had a discussion on him being concerned and that  
24 he had mentioned a mediator, and I had explained the  
25 response that, you know, can I understand more about the

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1 you saying?

2 A. The first few months. I'm sorry. I'll speak  
3 slower.

4 Q. The first few months of managing Jobbie,  
5 okay.

6 A. The first few months, yes, ma'am.

7 Q. So in early 2019, Ms. Rawat complained to you  
8 about Jobbie; is that correct?

9 A. That's not what I'm saying. I'm not saying  
10 that she complained to me about Jobbie. What I'm saying  
11 is that during one-on-ones, any manager would bring up  
12 their interactions with their employees and if there's  
13 things that they're working on from a coaching  
14 perspective with their employee. I'm not suggesting she  
15 complained about him. I'm explaining that she -- it  
16 would have come up in conversation if there was  
17 something that she felt like she was coaching an  
18 individual on. Jobbie came up in one of those  
19 conversations.

20 Q. Okay. What do you recall about Jobbie coming  
21 up in one of those conversations?

22 A. The concern of understanding -- understanding  
23 exactly what he was working on so that she could help  
24 prioritize. And when asking the question, that Jobbie  
25 seemed a little frustrated to provide the information

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1 and reluctant to provide the information.

2 Q. Anything else?

3 A. No.

4 Q. Did Ms. Rawat ever complain to you that  
5 Mr. Flowers had been aggressive towards her?

6 A. From a behavioral standpoint, there was  
7 concern of -- of tone and frustration and providing  
8 some, I would say aggressive feedback.

9 Q. Who's providing aggressive feedback?

10 A. Jobbie.

11 Q. To Ms. Rawat?

12 A. Yes.

13 Q. And had Jobbie ever provided aggressive  
14 feedback to you?

15 A. Yes.

16 Q. When?

17 A. When I managed him directly in 2017 and 2018.

18 Q. All right. Describe what you mean  
19 by "aggressive feedback."

20 A. Frustration with being questioned, raised  
21 tone. Negative, not positive feedback. Things such as  
22 that.

23 Q. Did you ever write up Jobbie or put him on a  
24 performance improvement plan for being frustrated with  
25 being questioned or negative, not positive feedback?

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1 A. No, I did not.

2 Q. And are there any witnesses that you can  
3 recall witnessing Jobbie being negative or frustrated?

4 A. Yes.

5 Q. Who?

6 A. Roy Harris.

7 Q. Could you spell those for the court reporter,  
8 please?

9 A. Yes. R-O-Y, Harris, H-A-R-R-I-S. Robert  
10 Kean, R-O-B-E-R-T, K-E-A-N.

11 Q. Anyone else?

12 A. Can you repeat the question?

13 Q. I'm asking you who else -- you said that  
14 Mr. Flowers had -- had been frustrated with being  
15 questioned and had a raised tone and that he had -- was  
16 negative, not positive. I'm asking you who witnessed  
17 Mr. Flowers other than you engaging in the descriptive  
18 behavior you just testified about?

19 A. Yeah. Thank you. Ravi Doshi, R-A-V-I,  
20 D-O-S-H-I. And that's -- that's all that I can recall.

21 Q. And how many times did -- well, strike that.

22 What's Mr. Harris' race?

23 A. He is a white male.

24 Q. What is Mr. Kean's race?

25 A. He is a white male.

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1 Q. What is Mr. Doshi's race?

2 A. He is of Indian descent.

3 Q. And how many times did any of these witnesses  
4 witness the behavior you just testified about?

5 A. I can't answer how many times they witnessed  
6 it themselves.

7 Q. Well, I think -- let me back up. You  
8 testified that you saw Mr. Flowers being frustrated with  
9 feedback and negative, not positive. And I asked you  
10 who witnessed that, and you gave me a list of three  
11 people. So help me understand the circumstances that  
12 you're so sure they witnessed this behavior.

13 A. Sure. There would be team meetings that  
14 Jobbie was a part of, and these were various team  
15 members on the team. And there were -- there were  
16 various times where these individuals would raise a  
17 concern directly to me of -- of Jobbie's behavior in  
18 speaking with the team during team meetings or being  
19 frustrated with being asked a question. And so they  
20 would raise that to me. I wasn't necessarily in those  
21 meetings when -- the ones that they would escalate to  
22 me, they would bring those to me outside of the meeting  
23 and ask for assistance.

24 Q. You said that's in 2017 and '18, correct?

25 A. Yes.

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1 Q. You never wrote Mr. Flowers -- you never put  
2 Mr. Flowers on a performance improvement plan of any  
3 sort regarding any of the behavior you just testified  
4 about, correct?

5 A. Yes, correct, I did not put him on a  
6 performance improvement plan for that because we did  
7 continual coaching. When those situations would come  
8 up, Jobbie and I would have a one-on-one and we would  
9 have discussion regarding the situation. The  
10 discussions would end in a positive way. It was -- and  
11 then the behavior would stop for a period of time, and  
12 then it would come back and we would have the  
13 conversation again. It was very inconsistent. During  
14 that time it required extra coaching. But to answer  
15 your question, I did not put him on a PIP.

16 Q. And you never mentioned any of this in any of  
17 his performance evaluations, correct?

18 A. I wouldn't agree with that.

19 Q. What do you recall about any written feedback  
20 you gave to Mr. Flowers regarding your testimony?

21 A. What I would put in the performance  
22 appraisals would be things such as continue to work  
23 on -- I can't remember specific wording, but continue to  
24 work on relationships with peers, continue to work on  
25 delivering messages in a positive way. It would be

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1 things such as that because I -- because as I mentioned,  
2 it -- it was very inconsistent.

3 There would be -- the behavior would -- would  
4 show and then we would have great coaching sessions, and  
5 then the behavior would go away for a temporary period  
6 of time and then it would come back. So the wording in  
7 the performance appraisal would be -- I would have put  
8 something similar to "continue to," things like that.

9 Q. Have you reviewed any of Mr. Flowers's  
10 performance appraisals in preparation for today's  
11 deposition?

12 A. Yes, I have glanced at them.

13 Q. What years did you glance at?

14 A. 2017 and 2018.

15 Q. Any other years?

16 A. No.

17 Q. Are you aware that Ms. Rawat put -- strike  
18 that.

19 I think you testified that the first  
20 conversation you recall having with Ms. Rawat was in the  
21 fall of 2019 regarding putting Jobbie on a PIP; is that  
22 correct?

23 A. No, that's not correct.

24 Q. Okay. When do you first recall having a  
25 conversation with Ms. Rawat about putting Jobbie on a

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1 A. I did not.

2 Q. Anyone else complain to you about  
3 Mr. Flowers?

4 A. None other than I've mentioned --

5 Q. All right.

6 A. -- before.

7 Q. You had said that Robert Kean who is a white  
8 male, correct?

9 A. Correct.

10 Q. Mr. Harris ever complain to you about  
11 Mr. Flowers?

12 A. Yes.

13 Q. When?

14 A. It would have --

15 Q. Let me be clear. When I say to you, came to  
16 you directly --

17 A. Yes.

18 Q. -- one-on-one with just you, not through  
19 Kopal, one-on-one with you. Do you understand that?

20 A. Yes, I do.

21 Q. When did Mr. Harris complain to you about  
22 Mr. Flowers?

23 A. Fall 2017.

24 Q. Okay. So no time in 2019; is that correct?

25 A. Correct.

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1 Q. Yeah. Madam Court Reporter just read it back  
2 to you, Ms. Simpson. Are you -- are you able to hear  
3 me?

4 A. I am able to hear you, but I -- I'm sorry.

5 Q. You've testified a couple times, you said you  
6 recalled having one one-on-one. Now you've said it's  
7 more one-on-ones. Okay. And earlier I asked you  
8 whether or not you recall Mr. Flowers expressly telling  
9 you during a one-on-one meeting that he believed  
10 Ms. Rawat was treating him differently because he's  
11 black. You said you don't recall Mr. Flowers telling  
12 you that.

13 Now you've told me about more meetings you  
14 had with Mr. Flowers, that you don't recall the time and  
15 date and how often. And I'm asking you, in all of these  
16 meetings that you allegedly had with Mr. Flowers, is it  
17 your testimony that he still never said anything to you  
18 that Mr. Flowers (sic) was treating him differently  
19 because he's black?

20 A. Yes, ma'am.

21 Q. You used the word "discriminate." I didn't  
22 use the word "discriminate." So I'm asking you, isn't  
23 it true that Mr. Flowers told you he believed he was  
24 being treated differently by Ms. Rawat because he's  
25 black?

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1 can't recall a specific -- a specific list of projects.

2 It would have been -- it would change with the time.

3 Q. And again, you never had any issues with  
4 Jobbie leading a team, correct?

5 A. I had issues with Jobbie and treatment of  
6 team members and the way he would discuss things and  
7 behavior with team members as he was a team lead.

8 Q. Okay. Have you told me all of the instances  
9 you can recall about any treatment of team members that  
10 you had issues with?

11 A. No.

12 Q. Okay. What other instances do you recall?

13 A. I recall there was a -- an issue with Robert  
14 Kean. This is when Jobbie was -- Jobbie and Rob were  
15 reporting directly to me, which would have been prior to  
16 Kopal coming to Electrolux. And there were some issues  
17 with -- it was issues with interaction between the two.

18 And there were -- it was Rob was working on a  
19 project. I can't remember the specific project, but  
20 Rob -- Rob was working on a project and -- and there  
21 were complaints of the way that Jobbie spoke to him on  
22 that project and when he was late and delinquent on  
23 delivering some task and some interaction there.

24 Q. And Rob reported to Jobbie; is that correct?

25 A. No.

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1 Q. Okay. And do you have any notes about this  
2 conversation you allegedly had with Rob about Jobbie?

3 A. No.

4 Q. Did you write Jobbie up and do any type of  
5 performance, written performance counseling as a result  
6 of Rob's complaint?

7 A. No written performance counseling.

8 Q. Did you put him on a performance improvement  
9 plan?

10 A. No, ma'am.

11 Q. Did you in any way document any -- any of the  
12 alleged complaint that you just testified about with  
13 Rob?

14 A. No. It would have been through coaching and  
15 I had one-on-one -- it was through coaching and  
16 one-on-one sessions that I had frequently with Jobbie.

17 Q. Okay.

18 A. As at that time he reported directly to me.  
19 So we would have a regular cadence of one-on-ones during  
20 that time period.

21 Q. Okay. Anything else?

22 A. Not that I can recall.

23 Q. So just to confirm, you did not hire Jobbie,  
24 correct?

25 A. That's correct.

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1       Electrolux prior to Ms. Rawat; isn't that true?

2           A.     It's true that he had not been placed on a  
3        performance improvement plan. It is not true that he  
4        did not have performance issues here and there that  
5        required coaching.

6           Q.     Okay. Coach -- would you agree with me,  
7        coaching and being put on a performance improvement plan  
8        are two different things?

9           A.     Yes, ma'am.

10          Q.     And again, Mr. Rawat -- Mr. Flowers had never  
11        been put on a performance improvement plan by any  
12        manager prior to Ms. Rawat, correct?

13          A.     Correct.

14          Q.     Again, coaching doesn't lead to termination,  
15        does it?

16          A.     Correct.

17          Q.     Performance improvement plan is the first  
18        step that leads to termination at Electrolux, isn't it?

19          A.     A performance improvement plan is intended  
20        for an employee to be successful and to understand where  
21        they're not performing consistently.

22          Q.     Have you ever put -- have you ever terminated  
23        someone who wasn't on a PIP?

24          A.     Yes.

25          Q.     Who?

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1 improvement plan?

2 A. Because -- because during the improvement  
3 plan, he was not meeting objectives that were set on the  
4 performance improvement plan.

5 Q. Can you recall any other individual on your  
6 team who was not given the full 90 days to improve their  
7 performance once placed on plan?

8 A. Yes.

9 There was a break in the sound. I'm sorry.

10 Q. Who?

11 A. Ken Cuebas.

12 Q. Spell that name, please.

13 A. K-E-N, Cuebas is C-U-E-B-A-S.

14 Q. What's Mr. Cuebas' race?

15 A. He is -- he is from Puerto Rico.

16 Q. Why wasn't Mr. Cuebas given the opportunity  
17 to work the full performance improvement plan?

18 A. He was not meeting his objectives defined in  
19 the performance improvement plan.

20 Q. When was -- was Mr. Cuebas terminated?

21 A. Yes.

22 Q. When?

23 A. I do not remember the year. Approximately,  
24 four years ago.

25 Q. Anyone else?

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1 feedback prior to the PIP?

2 A. Not that I can recall.

3 Q. And again, I think you said that he had not  
4 just rendered a complaint against his manager; is that  
5 correct?

6 A. He had not.

7 Q. Anyone else you can recall?

8 A. Not that I can recall.

9 Q. Did he and Jobbie work together?

10 A. Not on the same team.

11 Q. They just worked at the same time period; is  
12 that correct?

13 A. They both worked within IT at the same time  
14 period, yes, ma'am.

15 Q. Okay. Tell me every deliverable that Jobbie  
16 did not meet that led to his termination.

17 A. I can't give you the details of every single  
18 deliverable as -- I know there were issues with -- with  
19 multiple projects, with -- that he was assigned to.  
20 From a SharePoint migration project was one.

21 Q. And let me -- let me ask you. I should have  
22 clarified. I know Ms. Rawat complained to you. I want  
23 to only know what you personally were aware of. You  
24 only told me about audit, some audit reports or  
25 documents that you personally say that you gave to

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1 A. Yes, ma'am.

2 Q. Bates Number 2336 and until 2358. Do you see  
3 that?

4 A. Yes, ma'am.

5 Q. And this appears to be an email back and  
6 forth between Robert Kean and Kopal and Naomi Sinclair,  
7 indicating that Mr. Kean is receiving his PIP of May 19,  
8 2020. Do you see that?

9 A. Yes, ma'am.

10 Q. I'll scroll down again to the actual PIP.  
11 The date on this is -- well, the first month review is  
12 June 19, 2020, correct?

13 A. Yes, ma'am.

14 Q. And does this refresh your recollection that  
15 Mr. Kean's PIP did not occur at all in 2019?

16 A. Yes, it does, his second PIP. I do -- he was  
17 on a PIP prior to 2020.

18 Q. What --

19 A. He was on a --

20 Q. When was he on a PIP prior to 2020?

21 A. The 2020 PIP was his second performance  
22 improvement plan. He successfully completed his first  
23 performance improvement plan.

24 Q. But when was that?

25 A. Yeah, that, I'm sorry. Give me a second just

1 to think through the timing there.

2 Q. Wait a minute. Let me ask you. Who did he  
3 report to when he was on a PIP before?

4 A. He reported to me during the PIP.

5 Q. It wasn't Kopal, correct?

6 A. Correct.

7 Q. So it had to be before 2019, correct?

8 A. Correct.

9 Q. I only want to know about 2019 and 2020. And  
10 so Mr. Kean's PIP with Kopal happened after Jobbie had  
11 been fired by Kopal, correct?

12 A. Correct.

13 Q. Madam Court Reporter, I'm going to have to  
14 give that one an exhibit number at the end. So I'm just  
15 going to give myself a note to give you an exhibit  
16 number for the one I just showed because it was out of  
17 order.

18 Okay. I'll show you another document. If we  
19 go back to Exhibit 5 to your deposition, were you aware  
20 that Alexa Moor had sent Kopal a PIP template on  
21 July 24th, 2019?

22 A. I don't recall that specifically.

23 Q. Do you know if Ms. Moor had spoken with  
24 Jobbie at all prior to July 24th, 2019, at 2:54 p.m.?

25 A. I don't know if she had.

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1 you're answering things that are not my question. So  
2 you're going to make this a much longer day than  
3 necessary, okay, Ms. Simpson. Do you recall asking HR  
4 to send a template of any sort regarding Jobbie Flowers?

5 A. I do not recall that.

6 Q. Ever? Is that accurate, ever?

7 A. I do not recall that.

8 Q. Do you recall asking Alexa Moor to send  
9 Ms. Rawat a performance improvement plan template  
10 regarding any other employee on the week of July 22nd?

11 A. I do not recall.

12 Q. And you're -- already testified that other  
13 than Robert Kean who was put on a PIP in 2020, Ms. Rawat  
14 had no other employees on a performance improvement  
15 plan, correct?

16 A. Correct.

17 Q. Did you re -- ever ask anyone to this day,  
18 not back then, now as to why Ms. Rawat was getting a  
19 copy of a performance improvement plan from Ms. Moor  
20 three days after -- within five days of Jobbie  
21 indicating he wanted to go to HR to complain about her?

22 A. No.

23 Q. I'm going to show you what the attachment is  
24 that is Exhibit 6. Have you ever seen this document  
25 before? Let me tell you the Bates numbers. It is Bates

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1 Did you receive this invite that Jobbie had sent Kopal  
2 requesting a mediator?

3 A. I do recall seeing this. I'm not sure if it  
4 was as an invite or an email to me, but I do recall  
5 seeing this.

6 Q. Do you recall who sent you the email?

7 A. I believe it was Jobbie.

8 Q. Why do you believe it was Jobbie?

9 A. I believe -- I believe he forwarded me an  
10 email.

11 Q. Okay. So do you recall seeing an email where  
12 Jobbie had said, "I was the chairperson for the  
13 diversity inclusion network at Hewitt for years. Also,  
14 as you know, I'm a community activist in both  
15 Mecklenburg and Forsyth Counties, so I have experience  
16 handling these types of situations." Do you recall  
17 seeing -- receiving an email from Jobbie with that  
18 language in it?

19 A. Yes.

20 Q. Did you have an understanding as to what he  
21 meant by "these types of situations"?

22 A. I know related to communication issues and  
23 conflicts, is my understanding of what he meant by the  
24 email.

25 Q. What does "diversity inclusion" mean to you?

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1           A.     Diversity inclusion is -- excuse me, I need  
2     to plug my power in. I'm not going to go anywhere. I  
3     just need to grab my power plug. Sorry. It just buzzed  
4     at me.

5           Q.     Yeah, if you'll go ahead and answer that  
6     question. Then I'll take a break and you can plug in  
7     your computer.

8           A.     Oh, I'm sorry. I didn't realize -- I  
9     actually plugged it in. I apologize.

10                 Diversity inclusion, what that means to me  
11     is, is ensuring that -- that we broaden our resource  
12     pool and ensure that we include race, culture,  
13     religions, gender. It is making sure that we have a  
14     broad pool of resources and we treat them the same.

15                 Q.     Ms. Simpson, you got an email from Jobbie in  
16     September of 2019 where he's asking for a mediator with  
17     his manager, correct?

18                 A.     Correct.

19                 Q.     In that same communication, Jobbie is  
20     referring to diversity inclusion and indicating that he  
21     needs a mediator because of these types of situations,  
22     correct?

23                 A.     Correct.

24                 Q.     You didn't at all think that this was about  
25     his race when you received this?

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1 A. I did not.

2 Q. Again, you didn't do anything to find out  
3 either, did you? You didn't go and ask Jobbie, are you  
4 having any issues as it relates to your race with  
5 Ms. Rawat, did you?

6 A. I did not.

7 Q. That's because Jobbie had told you repeatedly  
8 he believed that Ms. Rawat was treating him differently  
9 because he's black, isn't it?

10 A. That's not true.

11 Q. You knew when you received this email that  
12 Jobbie was sending it, trying to find a solution because  
13 he was being treated differently because of his race by  
14 Ms. Rawat, didn't you?

15 A. No, that's not true.

16 Q. You didn't do anything, though, at all to  
17 confirm either way; you didn't do anything to have  
18 Ms. Rawat investigated to see if she had any kind of  
19 bias whatsoever against Mr. Flowers because he's black,  
20 did you?

21 A. I engaged HR with this email, and I also met  
22 with Jobbie directly.

23 Q. You engaged HR by sending them an email. Did  
24 you go and ask HR to investigate Ms. Rawat because --

25 A. I --

1 started, correct?

2 A. Not since the day she started. I know it was  
3 early on with her taking over the team, and she began in  
4 January of 2019. I don't know the exact timing, so I  
5 can't say it's the day she started, but I know it was  
6 earlier on.

7 Q. So you indicated that you thought Dan should  
8 become involved. Is it simply because Alexa was  
9 leaving?

10 A. Yes.

11 Q. Even though you knew that Jobbie was seeking  
12 a mediator and had expressly reached out to you  
13 regarding the same?

14 A. Yes. And that's because I was out of town at  
15 this time frame and wanted to see if someone could  
16 connect with Jobbie before I returned.

17 Q. Do you know anybody did?

18 A. I don't know.

19 Q. And did you do anything to find out if anyone  
20 did?

21 A. I connected with Jobbie when I returned, but  
22 I did not -- I don't know. I don't recall following up  
23 with -- to see if someone else did.

24 Q. You're kind of loose when you talked to  
25 Jobbie and didn't. Do you have any documents or notes

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1 Q. Okay. Were you in a room where Naomi asked  
2 Jobbie to review the PIP again?

3 A. Not that I recall.

4 Q. Tell me every instance you recall meeting  
5 with Jobbie after the PIP was issued.

6 A. I remember speaking to Jobbie regarding the  
7 request for mediator when I returned from out of town.

8 Q. Wait a minute. Okay. So come on,  
9 Ms. Simpson, I'm going to have to go back and forth. Do  
10 you recall the timing of the request for a mediator?  
11 I'll show it to you again. You just saw the September  
12 emails.

13 A. Yes.

14 Q. Okay. When was the PIP issued?

15 A. I believe it was issued in October.

16 Q. So you think in October of 2019?

17 A. October/November.

18 Q. So between September, it was September of  
19 2019 when Jobbie asked you to get a mediator to help him  
20 with Ms. -- Ms. Rawat's discrimination; isn't that true?

21 A. Jobbie asked for a mediator in September of  
22 2019. We had a conversation following that within the  
23 week of my return. And that request was no -- after  
24 that meeting, he did not request a mediator. He felt  
25 like after that conversation, he felt like that he -- he

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1 did not ask for a mediator. He felt like that he could  
2 progress forward and they would work better together and  
3 he would communicate, and so the request for mediator  
4 ended at that point. It did not come back up.

5 Q. Ms. Simpson, isn't that not true? I mean,  
6 isn't it -- isn't it true when Jobbie asked for a  
7 mediator, you denied it? You said, we can't staff with  
8 a mediator. We don't have enough people to do that;  
9 isn't that true?

10 A. I -- I did explain to Jobbie that we're not  
11 staffed to have a mediator in every manager and employee  
12 meeting, and to explain to me kind of what was going on.  
13 And we had that discussion, and we ended the  
14 conversation with -- with a path forward.

15 Q. So stop there. You had denied the mediator  
16 before you even knew what he needed it for. Is that  
17 your testimony?

18 A. No. That's not my testimony.

19 Q. You didn't -- you didn't open a mediator  
20 option up with open arms and say, Jobbie, we'll get you  
21 whatever you need to help make this work. You said, we  
22 can't afford a mediator, we don't have enough people for  
23 a mediator, you know, tell me what's going on. Isn't  
24 that true?

25 A. I -- yes, I expressed that we -- we do not --

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1 team -- her team individually to find out if there was  
2 anything you weren't aware of or that you needed more  
3 information on as it relates to how she was treating  
4 Jobbie?

5 A. No.

6 Q. She didn't have any other African Americans  
7 on her team, correct?

8 A. No.

9 Q. Was Mr. Flowers replaced with an African  
10 American employee?

11 A. We have not replaced that -- a team member,  
12 his position on the team.

13 Q. Does Mrs. Rawat have any African American  
14 employee reporting to her currently?

15 A. No.

16 Q. Okay. I need to take a 10-minute break. I  
17 need to make a call. So let's take ten minutes and,  
18 we'll come back on at 5 till. Does that work?

19 A. Yes, ma'am.

20 (Recess taken 10:43 a.m. to 11:00 a.m.)

21 BY MS. GESSNER:

22 Q. Okay. Back on the record, 11:00 a.m. And as  
23 a reminder, you're still under oath. Do you understand  
24 that, Ms. Simpson? Okay.

25 A. Yes.

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1           A.     Jobbie's performance -- and I want to clarify  
2     "changed." So I had similar situations when I -- when  
3     Jobbie reported directly to me --

4           Q.     Ms. Simpson --

5           A.     -- on --

6           Q.     -- but they never rose to the level of you  
7     writing him up, correct?

8           A.     Right.

9           Q.     Okay. So you didn't at all discipline Jobbie  
10    or threaten his job in any way until after he was  
11    working for Ms. Rawat and she wanted to terminate him,  
12    correct?

13          A.     She wanted to put him on a performance  
14    improvement plan to improve his performance because it  
15    wasn't consistent. The change was the consistency of  
16    not meeting deadlines and things such as that.

17          Q.     When did you first become aware that  
18    Mr. Flowers was suffering some issues related to his  
19    diabetes causing him to be out of work some?

20          A.     I was not aware that Jobbie was suffering  
21    issues from diabetes while he was employed here.

22          Q.     And so never -- it's your testimony that not  
23    one time while you were talking to Jobbie did he mention  
24    to you that he was a diabetic?

25          A.     Not that I recall.

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1       the specific date, but it was the beginning of November  
2       I believe.

3           Q.     There was one follow-up meeting on  
4       December 9th; is that accurate?

5           A.     Formal follow-up meeting. There's typically  
6       one per month on those. And then, but there are weekly  
7       one-on-ones with the individual and their direct manager  
8       and -- and HR typically.

9           Q.     Okay. So the -- so the one-on-ones do not  
10       always have HR in every meeting; is that accurate?

11          A.     A lot of times they do. I can't say that  
12       it's 100 percent that HR is there, but it's a large  
13       majority.

14          Q.     Are you --

15          A.     If not all.

16          Q.     Can you swear under oath that Mrs. Sinclair  
17       or any member of HR attended all of Mrs. Rawat's  
18       follow-ups with Mr. Flowers?

19          A.     I can't because I -- I was not in attendance  
20       of all the -- the weeklies, so I can't say that she made  
21       100 percent of them or not.

22          Q.     What were you in attendance for as it related  
23       to the follow-ups with Mr. Flowers?

24          A.     The formal, the formal one-on-ones.

25          Q.     As of January 3rd, there was only one formal

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1           A.     Yes, ma'am.

2           Q.     What do you recall, if anything, about the  
3 follow-up meeting on December 9th?

4           A.     I mean, I recall Kopal going through the PIP  
5 document, and it had what the original objectives of the  
6 performance improvement plan were and then a measure on  
7 how Jobbie was tracking toward those objectives --

8           Q.     And how was he doing --

9           A.     -- and there were -- there were some  
10          deficiencies. I can't remember the specific which ones.  
11          And it's documented in that -- in the documentation that  
12          was reviewed during that day, but there were still some  
13          deficiencies.

14          Q.     Was there no improvement at all?

15          A.     I don't have the document in front of me, but  
16          there was a significant amount of deficiencies  
17          remaining.

18          Q.     Okay. Again, I know you don't have the  
19          document in front of you, but do you recall anything  
20          about Mr. Flowers' improvements?

21          A.     I do not.

22          Q.     Do you recall anything about the deficiencies  
23          that you say were many and were still missing?

24          A.     I remember in -- I remember -- between the  
25          two, I can't remember exactly which one was in which,

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1       but I remember there were -- there were deadlines that  
2       were explicitly set to -- to do some hand-over related  
3       to CAB and getting some documentation together for the  
4       CAB meetings. I remember, I believe there were some  
5       SharePoint migration deadlines that were not met with  
6       user stories. And yeah, there were -- there were a few  
7       things that were gone through.

8           Q.     And all the things you just testified about  
9       were feedback that Mrs. Rawat was giving, correct?  
10      Given -- giving Jobbie, correct?

11       A.     Yes.

12       Q.     You didn't check behind to see if Mr. Flowers  
13       had missed the CAB hand-over or the SharePoint deadline  
14       or anything that Ms. Rawat had written down, did you?

15       A.     I didn't check behind, but sitting in the  
16       meetings, it was not disputed that it wasn't delivered  
17       by Jobbie.

18       Q.     What do you mean "it wasn't disputed"?

19       A.     During -- during the meeting, you know,  
20       during the meeting she went through the, here's a  
21       deadline, you know, X, Y, Z. And here is -- and you did  
22       not deliver on this deadline. And so it wasn't that  
23       that wasn't -- was said to be inaccurate by Jobbie  
24       during those meetings. But to answer your question, I  
25       did not go behind and check the work.

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1       that you showed that I have explained that I had not  
2       seen.

3           Q.     Okay.

4           A.     Or read.

5           Q.     And on the exhibit in front of you where the  
6       period was being extended for two weeks, again I think  
7       we were talking about December 9th. Do you recall  
8       anything else about the meeting on December 9th other  
9       than what you've already told me?

10          A.     I do not.

11          Q.     Did you believe it was a positive meeting?

12          A.     I mean, I -- I believe that it ended in a --  
13       I think there were -- there were things to work on, for  
14       Jobbie to work on, but I -- I believe it ended in a way  
15       that he was fully aware of that and willing to go do  
16       that. So depends on, I guess, your definition of  
17       "positive," but I feel like it ended in a clear way  
18       where everyone understood the expectations going  
19       forward.

20          Q.     Have you read Naomi Sinclair's deposition  
21       transcript?

22          A.     No, ma'am.

23          Q.     As of Monday, January 6th, we are about less  
24       than 60 days into the PIP period; is that accurate?

25          A.     It's right at, right at 60 I guess, yeah.

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1 Q. And Mrs. Rawat is informing Jobbie that she's  
2 going to extend the evaluation period by two weeks;  
3 isn't that accurate?

4 A. That she's going to extend that second  
5 meeting by two weeks, is how I'm interpreting this, the  
6 second follow-up meeting.

7 Q. Okay. I'm going to show you another  
8 document. And were you aware that Jobbie had to -- had  
9 a medical event in January of 2020?

10 A. I am not sure.

11 Q. Okay. I'm showing you -- --

12 A. I'm not sure.

13 Q. -- Bates Number 83416 and --

14 A. Okay.

15 Q. -- 83417.

16 A. Okay.

17 Q. Do you see the email from Jobbie to Kopal  
18 saying that he needs to leave, he has an appointment at  
19 2:00, and he'll bring a note from a doctor? Do you see  
20 that?

21 A. I do.

22 Q. And as of Monday, January 13th, Kopal had not  
23 had a second follow-up meeting with Jobbie, had she? A  
24 formal follow-up to the PIP meeting; is that accurate?

25 A. She had not had the formal follow-up, but she

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1           A.     The decision, so she brought a recommendation  
2         to myself, and then she and Naomi and I had a  
3         conversation. It was following that meeting. And I  
4         would suggest it was -- wasn't necessarily -- I don't  
5         think it was the following week. I think it was the  
6         week after. And so gave -- she gave feedback of, you  
7         know, the objectives and what had been met, what had not  
8         been met, some concerns that came out of that meeting,  
9         she and Naomi. And so we had a discussion. And so the  
10       decision was made --

11           Q.     So --

12           A.     -- among the three --

13           Q.     Ms. Simpson, I didn't ask you for the history  
14         of when and where. I simply asked you what was the date  
15         that Mrs. Rawat made the decision to terminate Jobbie.  
16         That's a -- that's a simple question. So do you --

17           A.     I understand --

18           Q.     Do you know the date that Mrs. Rawat made the  
19         decision to terminate Jobbie?

20           A.     Again, the reason I'm clarifying is because  
21         it's a recommendation that she makes. It's a decision  
22         -- it's not a decision -- that's why I'm clarifying.

23           Q.     I think that you're clarifying that because  
24         you all want to include Naomi in the decision because  
25         she's black. So let me break it down. Could Naomi --

1 did Naomi Sinclair decide to terminate Jobbie Flowers on  
2 her own by herself?

3 A. No.

4 Q. Okay. Did you decide to terminate Jobbie  
5 Flowers on your own by yourself?

6 A. No.

7 Q. Who was closest to -- well, strike that.

8 Who had the majority of one-on-one meetings  
9 spent with Jobbie Flowers, you or Mrs. Rawat?

10 A. During the performance improvement plan --  
11 during 2019, it would be -- it would be Kopal.

12 Q. And the recommendation to terminate came from  
13 Kopal. Isn't that your testimony?

14 A. It actually came to me from both, Kopal and  
15 Naomi in a meeting.

16 Q. Okay. And again, you didn't do anything  
17 independent to go and speak with Mr. Flowers about what  
18 happened at that meeting at all, did you?

19 A. I did not because there was a manager and HR  
20 present, so I did not.

21 Q. And a manager who you knew that Jobbie had  
22 already been complaining about for months about how he  
23 was being treated, correct?

24 A. Again, Jobbie had submitted two email  
25 complaints, and both were addressed at the time, and

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1 both had conversations with Jobbie. I had a  
2 conversation with Jobbie, and it was, we're going to  
3 move forward, he's going to do his part. So it wasn't  
4 an open --

5 Q. Ms. Simpson, Ms. Simpson, that's your word  
6 against his, isn't it? About what you said and he said  
7 during this once or twice meeting that you can recall?  
8 I mean, his testimony is, he told you repeatedly he was  
9 being treated differently because he was black by  
10 Ms. Rawat. And are you refuting that testimony?

11 A. Yes.

12 Q. And again, you didn't do anything to make  
13 sure that an investigation occurred of Mrs. Rawat after  
14 you learned that Jobbie believed he was being treated  
15 differently because he was black, did you?

16 A. I did not learn that, so no, I did not open  
17 an investigation.

18 Q. Did you ask Naomi to even ask Mr. Flowers if  
19 he believed he was being treated differently because he  
20 was black?

21 A. I did not.

22 Q. So when did you first learn that Mrs. Rawat  
23 was making the recommendation to terminate Jobbie?

24 A. It would have been the week prior to the  
25 January 22nd meeting.

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1       we have an audit, and various people are responsible for  
2       providing input or documentation that is submitted for  
3       audit. And so it's an audit coordination role.

4           Q.     So just to be clear, it's your testimony you  
5       never promoted Mr. Flowers or gave him any increased  
6       responsibility; is that true?

7           A.     I never promoted Jobbie.

8           Q.     Okay. Did you give him any increased  
9       responsibility because of his performance?

10          A.     No.

11          Q.     And you never gave Mr. Flowers a needs  
12       improvement -- I'm sorry, a needs improvement or any  
13       kind of rating on a performance evaluation below meets  
14       expectations, correct?

15          A.     Correct. He had meets expectation.

16          Q.     And he was meeting expectations prior to  
17       Mrs. Rawat becoming his manager, correct?

18          A.     He was rated as meets expectations and during  
19       those conversations and there -- there -- there are five  
20       different levels of a rating for performance review, and  
21       meets expectation is the one in the middle. And so --  
22       and he -- during the two years that I managed him, the  
23       performance was inconsistent in that -- in that it  
24       would -- it would be good. It would require some  
25       coaching. It would be good. It would require some

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1 coaching.

2 And so that -- that leveled out to meets  
3 expectations, where I know as before he had reported  
4 that he had had higher ratings from previous management.

5 Q. Did you ever look at his performance  
6 evaluations to see how prior managers had rated him?

7 A. I took his word for how they had rated him,  
8 but just keeping in mind that the performance evaluation  
9 yearly is based on that year performance specifically.

10 Q. And once Mrs. Rawat came on the scene, you  
11 also never pulled his evaluations to see if there was  
12 any prior concerns or issues because you'd just been  
13 supervising him the last two years, correct?

14 A. I didn't understand the question. Can you  
15 say that again?

16 Q. Did you at any point in time in 2019 or 2020  
17 look at Mr. Flowers' prior performance evaluations?

18 A. No.

19 MS. GEESNER: That's all the questions I have  
20 for now.

21 THE WITNESS: Okay.

22 MR. ALEXANDER: I've got -- I've got just a  
23 couple for you, Ms. Simpson.

24 EXAMINATION

25 BY MR. ALEXANDER: